

**CHAPTER NO. 1085**

**HOUSE BILL NO. 3302**

**By Representatives Hargrove, Bowers**

**Substituted for: Senate Bill No. 3315**

**By Senator Clabough**

AN ACT to amend Tennessee Code Annotated, Title 45, Chapter 2, Part 9 and Sections 67-8-417 and 67-8-418, relative to property of a decedent.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-2-905, is amended by deleting the section in its entirety and by substituting instead the following:

(a) No lessor shall rent any safe deposit box without first requiring all persons entitled to access thereto to agree in writing to notify the lessor of the death of a sole or last surviving lessee of such safe deposit box, and all persons having the right of access to such safe deposit box, upon the death of any such other person having the right of access thereto, before seeking access, shall notify the lessor of the death of such lessee, and the lessor may rely conclusively upon the absence of any such notification in allowing a person with a right of access to enter the box.

(b) Access to a safe deposit box shall be in accordance with the agreement between a lessor and lessee (lessees). The death of a person authorized access to a safe deposit box by such agreement shall not terminate the access of others so authorized in all cases where there is a surviving lessee, whether such surviving lessee is an individual, trust, corporation or other entity, unless further access is restricted by such agreement or by court order.

(c) Upon the death of the sole or last surviving lessee of a safe deposit box, access is authorized as follows:

(1) The duly qualified executor or administrator of said lessee may have access to and remove contents from such safe deposit box, without inventory unless an inventory is required by the lessor or by court order.

(2) In order to search for and remove any written instrument purporting to be said lessee's last will and testament, or any writing relating to a burial plot or burial instructions, or any writing purporting to be an insurance policy on the life of said lessee, a lessor shall permit a person named in a court order for such purpose, or if no order has been served upon the lessor, the said lessee's spouse, parent, adult sibling or adult descendant, or a person named as executor in a copy of said lessee's purported will provided to the lessor, or any person with a right of access to the safe deposit box immediately prior to the death of said lessee, to open the safe deposit box with an officer or employee of the lessor and remove any such documents. A record of items removed from the box by the person authorized entry shall be made by the lessor and said person. If a purported will is found that does not name as executor the person conducting the will search with the lessor's

representative, the lessor may make a copy thereof and mail or deliver it to the executor named therein, or to the court having jurisdiction of the decedent's estate according to the decedent's domicile as declared in such instrument.

(3) If an executor or administrator of said lessee's estate has not requested access to the contents within sixty (60) days following the lessee's death, the lessor may then permit access by the surviving spouse or any next-of-kin of the lessee for the purposes of inventory and the removal of contents. Prior to removal, an officer or employee of the lessor and the surviving spouse or next-of-kin of the lessee shall inventory the contents of the box and prepare a record thereof to be retained by the lessor.

(d) Upon the death of the sole or last surviving lessee, the lessor shall notify the Department of Revenue of the death of such lessee and the existence of a safe deposit box within thirty (30) days of the time the lessor has actual knowledge of the lessee's death. The lessor shall retain records made pursuant to subsection (c) of this section for a period of three (3) years after entry. The provisions of Chapter 10 of this title notwithstanding, the lessor shall provide copies of any such record to the Tennessee Department of Revenue upon its request, to the executor or administrator of the decedent upon request, and to any party designated by court order, and the lessor may elect to provide copies to any person authorized access to the box at the time of the decedent's death or to any person having a degree of kinship to the decedent equal to that of the next-of-kin who received contents following the death of the decedent.

(e) A lessor shall not be liable to any person for the removal or loss of any contents from a safe deposit box during a period of access by an executor or administrator of a deceased lessee, or by any other person or persons authorized access to open and examine contents, whether the property removed or lost is that of the decedent's estate, a surviving lessee, or any other person, and the lessor is entitled to its expenses in defending against any such claim of liability.

(f) To the extent that there is a conflict between the provisions of this section and Sections 67-8-417 or 67-8-418, the provisions of this section shall control.

SECTION 2. Tennessee Code Annotated, Section 67-8-417(e), is amended by adding as a new item (5) the following:

(5) The provisions of this subsection shall not apply to the delivery or transfer of property held in a safe deposit box by a bank, savings and loan association or savings bank, such delivery or transfer being subject to the provisions of Section 45-2-905; nor shall this subsection apply to the delivery or transfer of property held in an account of the bank, savings and loan association or savings bank, if the bank, savings and loan association or savings bank reports to the Department of Revenue such delivery or transfer involving the accounts of a decedent having an aggregate value of fifty-thousand dollars (\$50,000) or greater, excluding accounts owned jointly with a surviving spouse.

SECTION 3. Tennessee Code Annotated, Section 67-8-418(a), is amended (1) by deleting the words "No safe deposit company, trust company, bank, or other person engaged" and by substituting instead the words "No person engaged".

(2) And is further amended by adding a new subsection (e) as follows:

(e) The provisions of this section shall not apply to any bank, savings bank, saving and loan association, or trust company subject to the procedures provided in Tennessee Code Annotated, Title 45, Chapter 2, Part 9.

SECTION 4. The lessor of a safe deposit box shall mail a notice to the lessee:

(a) At the address maintained by the lessor;

(b) Not later than the effective date of this act;

(c) Containing substantially the following:

(1) The law governing safe deposit boxes has changed effective July 1, 1998.

(2) Upon the death of a lessee, the lessor is no longer required to complete an inventory of the contents of the box prior to delivering the contents to a surviving co-lessee or to executor or administrator of the estate of the deceased.

(3) Upon the death of a lessee, an inventory will still be required prior to delivery of the contents of the safe deposit box to any persons other than a co-lessee, executor or administrator; and

(4) Such other information concerning the operation of the safe deposit box that the lessor desires to include.

(d) The notice may be included in or combined with a regular mailing to the customer, provided the notice is clearly identified.

SECTION 5. This act shall take effect on July 1, 1998, the public welfare requiring it.

PASSED: May 1, 1998

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 19<sup>th</sup> day of May 1998

  
DON SUNDQUIST, GOVERNOR